

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 239 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

UTTAR PRADESH CO-OPERATIVE HOUSING SOCIETY LTD.

Versus

MUNI HEMCHANDRA ACHARYA CO-OP.HOUSING SOCIETY LTD.

Appearance:

MR BM MANGUKIYA for Petitioner
MR SHALIN N MEHTA for Respondent No. 1
MR RM KHOLA for Respondent No. 3

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 02/08/2000

ORAL JUDGEMENT

Admit. The learned advocate for respondent no.1
waives service of notice.

2. The learned counsel for the respondent placed on
record today the affidavit-in-reply on behalf of the
respondent no.1. The learned counsel for the appellant

seeks permission to delete the respondent nos.2 to 4 as being mere formal parties. Permission is granted. The learned counsel appearing for the appellant and the respondent no.1 submit that the impugned order below Ex.5 made ex parte may be quashed and set aside pending hearing of the original application Ex.5 and in the meantime, the appellant makes a statement that the suit property in question shall not be sold, transferred, assigned, mortgaged or alienated and no further construction shall be put up on the suit property. The parties have agreed that the application Ex.5 is required to be heard afresh and disposed of as expeditiously as possible and they shall not seek any unnecessary adjournment.

3. Therefore, by consent, it is ordered that the impugned order below application Ex.5 in the original Special Civil Suit No.85 of 2000 is hereby quashed and set aside. The trial court is directed to hear the application Ex.5 afresh and the parties shall cooperate in expeditious hearing of the same and shall not seek any unnecessary adjournment. During the course of hearing and disposal of the said application Ex.5, the appellant shall not transfer, mortgag or alienate, or put up any further construction on the suit premises according to its statement. At the request of the parties it is clarified that the trial court shall not be influenced by the ex-parte injunction which was granted earlier or the statement made as above by the learned advocate for the appellant before this court. The Trial Court shall hear and decide the application Ex.5 as expeditiously as possible, preferably within six weeks from today. Direct service permitted.

02/08/2000. (D. H. Waghela,J)
vrpanchal.